IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.1834 OF 2007

Indira Mahila Adhar Kendra ..Petitioner

Vs.

Santosh Dadasaheb Kanchan
and Ors. ..Respondents

...

Mr.Sanjeev M.Gorwadkar Advocate for Petitioner
Mr.V.B.Konde-Deshmukh APP for State

...

**CORAM: R.M.S.KHANDEPARKAR, AND
SMT.V.K.TAHILRAMANI, JJ.**

DATE : NOVEMBER 2, 2007

P.C. [PER SMT.V.K.TAHILRAMANI,J.]:

1. Heard the learned advocate for the Petitioner and the learned APP for the State.

2. The petitioner has preferred this petition for transfer of the investigation pertaining to CR No.138 of 2007 registered at Loni Kalbhor Police Station, Pune (Rural). It is the case of the Petitioner that though the case would squarely fall under Section 302 of IPC, the said case was

registered by the police under Sections 498-A, 304-B and 306 of IPC. Even after the investigation is over, Section 302 of IPC was not applied and the charge sheet was filed only under Sections 498-A, 304-B and 306 of IPC.

3. Few facts of the case can be stated as under:

. Shubhangi (deceased) got married to Respondent No.1 Santosh Dada Kanchan on 13.12.2006. It is alleged that dowry was demanded by Kanchan family and also received by them from the parents of the deceased. It is further alleged that about Rs.10 lakhs were spent on the marriage by the father of the deceased Shubhangi. The demand of the Respondents Nos.1 to 3 was unending. The deceased was undergoing mental and physical harassment at the hands of Respondents Nos.1 to 3 The deceased had narrated the incidents of harassment to her mother and sister. On 23.4.2007, Shubhangi was asked to bring money for Scorpio car and washing machine from her parents. On the same day, Shubhangi was brought dead to Sasoon Hospital, Pune. She had suffered 97% burns. It is further alleged that it was later discovered that there was

no soot in the trachea and lungs of the deceased. She was murdered probably by strangulation or by suffocation and thereafter her body was burnt. C.R. No.138 of 2007 came to be registered against the accused on 24.4.2007. After completion of investigation, charge sheet came to be filed under Sections 498-A, 304(B), 306 r.w. 34 of IPC.

4. The learned advocate for the petitioner has submitted that though the case would squarely fall under Section 302 of IPC, the said case was registered by the police under Sections 498-A, 304-B and 306 of IPC. Even after the investigation was over, Section 302 of IPC was not applied and the charge sheet was filed only under Sections 498-A, 304-B and 306 of IPC. It is thus prayed that the said C.R.No.138 of 2007 be transferred to the State CID.

5. The investigating agency seems to have proceeded on the footing that deceased Shubhangi committed suicide. Had Shubhangi committed suicide by setting herself on fire, normally soot would have been found somewhere in her trachea or respiratory track. However, in the present case,

no soot was found. No investigation was done in that respect. Moreover, the investigating agency had not at all cared to investigate into the aspect as to whether it was a case of murder or suicide. Investigation on this aspect was carried out only during the pendency of the present writ petition. We find that investigation has not progressed in the right direction. No effort at all was made to investigate whether it was a case of murder. We find that the investigating agency has been lax in investigating the present C.R. Looking to these facts and other facts and circumstances, in the interest of justice, we are inclined to transfer the investigation of the present case to State CID (Crime) to further investigate the matter and thereafter take appropriate steps in accordance with law.

6. No doubt the charge sheet has been filed, however, in the decision of **Ram Lal Narang Vs. State (Delhi Admn.) And Omprakash Narang and another V. State (Delhi Admn.); reported AIR 1979 S.C. 1791**, the Supreme Court has observed that "even after the charge sheet has been filed and cognizance has been taken, further investigation

can be carried out".

7. In view of the above, CR No.138 of 2007 registered at Loni Kalbhor Police Station, Pune (Rural) is transferred to State CID (Crime) for further investigation into the matter. Petition is accordingly allowed in the above terms.

[R.M.S.KHANDEPARKAR, J.]

[SMT.V.K.TAHILRAMANI,J.]